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10/076,761	02/12/2002	David M.K. Lau	MM2-113	1771

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EXAMINER

BUI, LUAN KIM

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 03/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/076,761

Applicant(s)

LAU, DAVID M.K.

Examiner

Luan K Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 30-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 15, 16, 21-29 and 37-40 is/are rejected.
- 7) ☒ Claim(s) 13, 14 and 17-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Applicant's election with traverse of Group I (claims 1-29 and 37-40) in Paper No. 5 is acknowledged. The traversal is on the ground(s) that "evaluating the patentability of claim 8 necessitates a search of identical prior art areas to that required for evaluating the patentability of claim 30". This is not found persuasive because when the Examiner is evaluating the patentability of the claims, the structural limitations of the independent claim (claim 1) is allowable then claim 8 is allowable also and the inventions as presented between claims 1 and 8 and claim 30 are independent and distinct from each other and because examination of each invention will necessitate disparate searches which would clearly pose a burden.

The requirement is still deemed proper and is therefore made FINAL.

Claims 30-36 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 21-28 and 37-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrases "said roof ribs" in claim 21 and "said panel ribs" in claim 23 lack proper antecedent basis. It appears that claim 21 is depended from claim 18. In

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claim 37, the phrase “said roof panel a rectangularly-shaped space connecting with an upper end of said upright” is indefinite because it is not clear.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7, 12 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Heim (894,638). Heim discloses a storage container comprising a base panel (A), a plurality of side panels (B, B) fastenable to the base panel in upright orientation, a roof panel (C), and connector means (E, F, I) fastening the roof panel to the side panels to secure the side panels in the upright orientation and forming between inner surfaces of the base panel, side panels and roof panel an enclosed storage space. The connector means comprises a first tubular hinge lug member (F) protruding from a first one of the panels such as the roof panel and a second tubular hinge lug member (G) protruding from a second one of the panels such as a side panel adjacent to the first panel and coaxially alignable with the first tubular member and a friction pin (I) inserted into coaxially aligned bores within the first and second tubular hinge members. The first hinge lug connector member is defined as protruding downwardly from the roof panel (Figures 4-7).

5. Claims 1-4, 7, 12 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Wazeter, III (4,917,047). Wazeter, III discloses a storage container (10) comprising a base panel

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(20), a plurality of side panels (13-15) fastenable to the base panel in upright orientation, a roof panel (12), and connector means (26, 28) fastening the roof panel to the side panels to secure the side panels in the upright orientation and forming between inner surfaces of the base panel, side panels and roof panel an enclosed storage space. The connector means comprises a first tubular hinge lug member (28A) protruding from a first one of the panels such as the roof panel and a second tubular hinge lug member (28B) protruding from a second one of the panels such as a side panel adjacent to the first panel and coaxially alignable with the first tubular member and a friction pin (26) inserted into coaxially aligned bores within the first and second tubular hinge members.

6. Claim 37 is rejected under 35 U.S.C. 102(b) as being anticipated by Webb (4,673,087). To the extent that the Examiner can determine the scope of the claim, Webb discloses a storage container having a roof panel (13) and upright members (11, 12, 35) connected at upper ends at corners of the roof panel and the roof panel comprising a raised L-shaped stacking block (28) fastened to the roof panel having a generally flat upper surface and interior vertical side walls formed between exterior vertical side walls of the block and intersecting sides of the roof panel (Figures 1-2 and column 3, lines 1-5).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wazeter, III (4,917,047) in view of Barrow et al. (5,507,237; hereinafter Barrow'237). Wazeter, III discloses the storage container as above having all the limitations of the claims except for the base panel being defined as including a skeletal frame made of a pairs of parallel hollow rectangular channel members having closed upper surfaces and arranged in a rectangular grid, outer peripheral edges of each pair of the channel members being located at a side of the base and having thereat a pair of spaced apart tubular fork openings adapted to insertably receive a pair of laterally spaced apart forks of a fork lift truck. Barrow'237 discloses a container comprising a base panel (11) defined as including a skeletal frame made of a pairs of parallel hollow rectangular channel members (12, 13 or 14, 15) having closed upper surfaces and arranged in a rectangular grid, outer peripheral edges of each pair of the channel members being located at a side of the base and having thereat a pair of spaced apart tubular fork openings (16, 17 or 18, 19) adapted to insertably receive a pair of laterally spaced apart forks of a fork lift truck (Figures 1 and 3). It would have been obvious to one having ordinary skill in the art in view of Barrow'237 to modify the base panel of Wazeter, III so the base panel comprises a skeletal frame made of a pairs of parallel hollow rectangular channel members having closed upper surfaces and arranged in a rectangular grid, outer peripheral edges of each pair of the channel members being located at a side of the base and having thereat a pair of spaced apart tubular fork openings adapted to insertably receive a pair of laterally spaced apart forks of a fork lift truck to facilitate lifting the container.

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9. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wazeter, III (4,917,047) in view of Webb (4,673,087). Wazeter, III discloses the storage container as above having all the limitations of the claims except for each corner of the roof panel comprises an upwardly protruding stacking block having a flat upper surface adapted to support a lower surface of the base of another such container. Webb shows a storage container having a roof panel (13) and at each corner of the roof panel comprises an upwardly protruding stacking block (28) having a flat upper surface adapted to support a lower surface of the base of another such container (Figures 1-2 and column 3, lines 1-5). It would have been obvious to one having ordinary skill in the art in view of Webb to modify the roof panel of Wazeter, III so each corner of the roof panel comprises an upwardly protruding stacking block having a flat upper surface adapted to support a lower surface of the base of another such container to facilitate stacking to reduce space during storage.

Allowable Subject Matter

10. Claims 13, 14 and 17-20 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 21-29, 38 and 39 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (703) 305-5861. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to TC 3700 Customer Service at (703) 306-5648.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 872-9301. Facsimile correspondence for this application should be sent to (703) 872-9306 for Formal papers and After Final communications.

lkb
February 20, 2004

A handwritten signature in black ink, appearing to read 'Luan K. Bui', with a horizontal line underneath.

Luan K. Bui
Primary Examiner